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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,811	05/01/2001	Timothy W. Genske	6783P005X	6353

8791 7590 11/26/2008  
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP  
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EXAMINER
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CLOUD, JOIYA M

ART UNIT	PAPER NUMBER
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2444

MAIL DATE	DELIVERY MODE
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11/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* TIMOTHY W. GENSKE, WILLIAM G. SWINTON, DAVID VOGEL,  
PHILIPPE R. KAHN AND ERIC O. BODNAR

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Application No. 09/847,811  
Technology Center 2444

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Mailed: November 26, 2008

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 29, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S ANSWER, EVIDENCE RELIED UPON**

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed November 28, 2007 is deficient because the "Evidence Relied Upon" section fails to include the reference(s) Robinson (USPN 6,442,625), Donner (PG Pub 2006/0173781), Zintel (US PAT 6910068) cited on page(s) 3, 11 and 13 in the Examiner's Answer's grounds of rejection of Claims 27-29, 31, 33, 25, 68-87 are rejected under 35 USC 103(a) as being unpatentable over Robinson in view of Donner et al., (PGPUB 2006/0173781). Claims 1-26, 30, 32, 34, 36-39, 40 are rejected under 35 USC 102(e) as being anticipated by Robinson et al., (USPN 6,442,625). Claims 68-87 are rejected under 35 USC 103(a) as being unpatentable over Robinson in view of Donner et al., and further in view of Zintel et al., (USPAT 6910068).

Appropriate correction is required.

Accordingly, it is **ORDERED** that the application is returned to the

Examiner:

- 1) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 2) such further action as may be required.

Application No. 09/847,811

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/dp/dw

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